

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

ROBERT D. HIGGINS and MARIANNA)	
HIGGINS,)	
)	
Plaintiffs,)	
)	
vs.)	Case No. 4:05CV2065 HEA
)	
CHASE MANHATTAN MORTGAGE CORP.)	
NKA CHASE HOME FINANCE LLC)	
)	
Defendant.)	

OPINION, MEMORANDUM AND ORDER

This matter is before the Court on Defendant's Motion to Dismiss for Failure to Prosecute, [Doc. No. 29]. Plaintiffs have not responded to the motion. As provided herein, the Motion is granted.

Plaintiffs filed this action in the Circuit Court for the City of St. Louis, Missouri on October 5, 2005, alleging that Defendant violated the Real Estate Settlement Procedures Act, 12 U.S.C. § 2601, *et seq.* Defendant removed the action based on the Court's Federal Question and Supplemental Jurisdiction over the alleged state law claims.

On March 1, 2006, the Court entered its Case Management Order wherein the parties were ordered to serve their mandatory disclosures under Rule 26(a) of the Federal Rules of Civil Procedure on or before April 17, 2006. Plaintiffs have

failed to serve said disclosures despite repeated attempts by Defendant to secure them. Furthermore, Plaintiffs have initiated no discovery of their own. As such, Plaintiffs have failed to prosecute their action in the manner provided by the Federal Rules.

Pursuant to Rule 41(b), this action will be dismissed, without prejudice for failure to prosecute. In the event that Plaintiffs refile this action, it shall be refiled in this Court. Furthermore, in the event of refiling, Plaintiffs shall serve their mandatory disclosures on Defendant within 10 days from service of the Complaint on Defendants. Failure to comply with these conditions will result in dismissal with prejudice.

Accordingly,

IT IS HEREBY ORDERED that Defendant's Motion to Dismiss, [Doc. No. 29], is granted to the extent that this matter is dismissed, without prejudice for failure to prosecute.

IT IS FURTHER ORDERED that in the event of refiling of this action, the refiling shall comply with the conditions set forth herein.

Dated this 13th day of November, 2006.



HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE